



## 40 CFR Part 52

[EPA-R03-OAR-2020-0706; FRL-8845-02-R3]

### Air Plan Approval; Pennsylvania; Emissions Statement Rule Certification for the 2015

### Ozone National Ambient Air Quality Standard

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving a state implementation plan (SIP) revision formally submitted by the Commonwealth of Pennsylvania. This revision fulfills Pennsylvania's emissions statement requirement for the 2015 ozone national ambient air quality standard (NAAQS). This action is being taken under the Clean Air Act (CAA).

**DATES:** This final rule is effective on [insert date 30 days after date of publication in the Federal Register].

**ADDRESSES:** EPA has established a docket for this action under Docket ID Number EPA-R03-OAR-2020-0706. All documents in the docket are listed on the

<https://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <https://www.regulations.gov>, or please contact the person identified in the **For Further Information Contact** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Serena Nichols, Planning & Implementation Branch (3AD30), Air & Radiation Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. The telephone number is (215) 814-2053. Ms. Nichols can also be reached via electronic mail at [Nichols.Serena@epa.gov](mailto:Nichols.Serena@epa.gov).

## **SUPPLEMENTARY INFORMATION:**

### **I. Background**

On May 14, 2021 (86 FR 26448), EPA published a notice of proposed rulemaking (NPRM) for the Commonwealth of Pennsylvania. In the NPRM, EPA proposed approval of the Commonwealth's certification that the Commonwealth's emissions statement regulation meets the emissions statement requirement of section 182(a)(3)(B) of the CAA for the 2015 ozone NAAQS. The formal SIP revision was submitted by the Commonwealth of Pennsylvania, through the Pennsylvania Department of Environmental Protection (PADEP), on April 23, 2020.

### **II. Summary of SIP Revision and EPA Analysis**

Pennsylvania's emissions statement requirements are codified at 25 Pa Code chapter 135. Specifically, section 135.21, in accordance with CAA section 182(a)(3)(B), applies to nitrogen oxides (NO<sub>x</sub>) and volatile organic compounds (VOC) sources within marginal (or worse) nonattainment areas, as well as major NO<sub>x</sub> and VOC sources located in attainment areas located within the ozone transport region (i.e. the remainder of the Commonwealth). Affected sources are required annually to provide PADEP with a statement containing the source's actual NO<sub>x</sub> and VOC emissions, the method used to calculate those emissions, the time period over which the calculations are based, and a certification by an appropriate company officer that the statement is accurate. 25 Pa Code 135.21 also contains a waiver for sources emitting less than 25 tons per year, in accordance with CAA section 182(a)(3)(B)(ii). Additionally, 25 Pa Code 135.5 contains recordkeeping requirements necessary to document the data presented in the annual emissions statements.

PADEP's April 23, 2020 submittal contains a certification that the existing emissions statement program remains adequate under the revised, 2015 ozone NAAQS. Other specific requirements of PADEP's April 23, 2020 submittal and the rationale for EPA's proposed action are explained in the NPRM and will not be restated here. No public comments were received on the NPRM.

### **III. Final Action**

EPA is approving, as a SIP revision, the Commonwealth of Pennsylvania's April 23, 2020 emissions statement certification for the 2015 ozone NAAQS as approvable under CAA section 182(a)(3)(B). The Commonwealth's emissions statement certification certifies that the Commonwealth's existing SIP-approved emissions statement program under 25 Pa Code chapter 135 satisfies the requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

### **IV. Statutory and Executive Order Reviews**

#### *A. General Requirements*

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the CAA and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, this rule does not have tribal implications as specified by Executive Order 13175 (65 FR 67249, November 9, 2000), because the SIP is not approved to apply in Indian country located in the State, and EPA notes that it will not impose substantial direct costs on tribal governments or preempt tribal law.

#### *B. Submission to Congress and the Comptroller General*

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

#### *C. Petitions for Judicial Review*

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be

filed in the United States Court of Appeals for the appropriate circuit by **[insert date 60 days after date of publication in the Federal Register]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

This action approving the District's emissions statement certification for the 2015 ozone NAAQS may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

**List of Subjects in 40 CFR Part 52**

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: August 17, 2021

Diana Esher,  
Acting Regional Administrator,  
Region III.

For the reasons stated in the preamble, the EPA amends 40 CFR part 52 as follows:

## **PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

### **Subpart NN—Pennsylvania**

2. In § 52.2020, the table in paragraph (e)(1) is amended by adding an entry for “Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard” at the end of the table to read as follows:

#### **§ 52.2020 Identification of plan.**

\* \* \* \*

(e)\* \* \*

(1)\* \* \*

<b>Name of non-regulatory SIP revision</b>	<b>Applicable geographic area</b>	<b>State submittal date</b>	<b>EPA approval date</b>	<b>Additional explanation</b>
* *	* *	* *	*	
Emissions Statement Certification for the 2015 Ozone National Ambient Air Quality Standard	The Pennsylvania portion of the Philadelphia-Wilmington-Atlantic City (PA-NJ-MD-DE) nonattainment area for the 2015 ozone NAAQS	4/23/20	<b>[insert date of publication in the Federal Register], [insert Federal Register citation]</b>	Certification that Pennsylvania’s previously SIP-approved regulations at 25 Pa Code chapter 135 meet the emissions statement requirements of CAA section 182(a)(3)(B) for the 2015 ozone NAAQS.

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